

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES and JODETTE ATWATER,

Plaintiffs,

Civil Case No.
12-CV-15332

vs.

HON. MARK A. GOLDSMITH

BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., et al.,

Defendants.

ORDER OF DISMISSAL

Defendant filed a motion for summary judgment, on May 28, 2013. Dkt. 17. The Court thereafter issued a notice of hearing setting the matter for oral argument on August 8, 2013. Dkt. 18. Because Plaintiffs failed to file a response brief, or to request an extension of time to do so, prior to the deadline set forth in the Court's Local Rules, see E.D. Mich. LR 7.1(e), the Court issued an order on June 28, 2013, adjourning the upcoming motion hearing and requiring Plaintiffs to show cause in writing, by July 3, 2013, "why the claims that are the subject of the pending motion should not be dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b)." Dkt. 20. In the show cause order, the Court clearly warned Plaintiffs of the consequences of any failure to respond to the show cause order:

Should Plaintiffs fail to timely respond to this order, the Court will (i) construe Plaintiffs' silence as reflective of a clear intent to abandon the claims that are the subject of the pending motion, and (ii) dismiss those claims pursuant to Rule 41(b) with prejudice.

Id.

Plaintiffs have not responded to the Court's show cause order, and the deadline to do so has expired. Accordingly, this case is dismissed with prejudice. See Fed. R. Civ. P. 41(b); Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962).

SO ORDERED.

Dated: July 8, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 8, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager